



Summary of Ex Parte Presentation on Universal Service October 2003

Rural consumers in Alaska have benefited from competition through new service packages at lower rates. Competitively neutral USF policies are required to ensure that rural consumers receive the same benefits from competition as urban consumers. *The following policies are necessary for a pro-consumer, sustainable universal service fund:*

◆ **Distribute Equal Per Line Universal Service Support to all ETCs at a Comparable Quality Level**

1. Base per-line USF support on ILEC costs through 2005.
 - *Does not require establishment of unnecessary accounting, allocation, and oversight functions for competitive carriers.*
 - *Supported by wireless carriers, BellSouth, USTA.*
 - *There is no evidence that CETC **per-line** costs today would be lower than ILEC costs, especially at comparable levels of service quality.*
 - *Establish methodology to reduce USF high cost support in study areas where competition reveals that lower support would maintain affordable and reasonably comparable service, to be effective at end of RTF.*
2. Only equal per-line USF support is legally sustainable.
 - *Required by law: "The Act does *not* guarantee all local telephone service providers a sufficient return on investment; quite to the contrary it is intended to introduce competition into the market. . . . The Act only promises universal service, and that is a goal that requires sufficient funding of *customers*, not *providers*. So long as there is sufficient and competitively-neutral funding to enable all customers to receive basic telecommunications services, the FCC has satisfied the Act. . . ." *Alenco Communications v. FCC*, 201 F.3d 608, 620 (5th Cir. 2000).*
 - *Also, "portability is not only consistent with predictability, but also is dictated by principles of competitive neutrality and the statutory command that universal service support be spend 'only for the provision, maintenance, and upgrading of facilities and services for which the [universal service] support is intended.'" *Id.* at 622.*
 - *Satisfies principle of competitive neutrality by preserving the relative competitive relationship between carriers.*
 - *Does not artificially sustain the higher-cost provider in the market, thereby ensuring that support will be sufficient, but not excessive.*



3. Competitively neutral controls on fund growth are appropriate.
 - *True portability, as contemplated by Sec. 54.307, requires that the ILEC loses support for lines served by CETC.*
 - *Capping per-line support upon CETC entry as supported by RTF controls unjustified escalation in support as ILEC loses lines.*
 - *Bona fide quality of service differences may be addressed through discounts in support.*
 - *Require LSS eligibility to be calculated based on the greater of study area lines or the number of lines served from switches located in that study area. No LSS should be paid for switching lines that are served from an out-of-area switch that serves greater than 50,000 lines.*

◆ **Adopt Competitively Neutral ETC Policies**

1. All ETCs should be required to demonstrate appropriate use of support.
 - *ILECs and CETCs alike should be required to demonstrate that support is used solely for the provision, maintenance and upgrade of facilities used for supported services.*
 - *USAC should be directed to implement “red-flag” system to investigate unreasonable ILEC cost changes (ACS reported \$2 ICLS increase in Anchorage in 3Q 03).*
2. No limitation on the number of CETCs in a market should be adopted.
 - *Limitations are not necessary. If the market is too small, it won’t tolerate multiple CETCs. This is especially true if the RTF per line support cap is adopted.*
 - *Limitations would be arbitrary and capricious.*
 - *Limitations based on the high-cost support create incentives to inflate or manipulate costs as a barrier to entry.*

◆ **Reject “Red Herrings” Used to Support Anti-Competitive Policies**

1. Carrier of last resort obligations: RLECs claim that universal service policies should reflect that they bear COLR obligations.
 - *COLR obligations are only relevant when no carrier would otherwise provide service to an area. Competing carriers have every incentive to extend service to new customers.*
 - *Imposing COLR obligations as a condition of ETC designation is expressly contrary to Section 214(e)(4), raises a barrier to entry and, if undertaken by the state, violates Section 253.*
 - *All CETCs bear the risk of the obligation to serve the entire study area if the ILEC exits the market.*



2. Service quality standards: RLECs question whether CETCs provide quality of service on par with incumbents.
 - *Any service quality requirements must be set forth as part of the supported services.*
 - *Consumers should be trusted to make the best choices about service quality and value.*